Revision of the Book of Discipline.

REMARKS

ON THE

REPORT OF THE COMMITTEE

ON THE

REVISION OF THE BOOK OF DISCIPLINE

OF THE

PRESBYTERIAN CHURCH.

WITH AN APPENDIX,

CONTAINING THE REVISED BOOK.

BY

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THESE OBSERVATIONS on the Revised Book of Discipline (which was published by the Committee preparatory to its presentation to the General Assembly of 1859), were first printed in the *Presbyterian Magazine*, of which the author is Editor. A small edition has been struck off in this form, with a view to aid in the discussion of the subject.

The writer finds himself, quite unexpectedly, compelled to differ from his respected brethren of the Committee, on most of the important amendments they suggest.

THE REVISED BOOK OF DISCIPLINE is printed at the end of this pamphlet for the convenience of the members of the General Assembly, and of others who may wish to consult it.

For Index of subjects discussed in this Pamphlet, see page 38.

REVISION OF THE BOOK OF DISCIPLINE.

ALTERATIONS in the Constitution of the Church are seldom undertaken. *Doctrinal Articles*, framed in the wisdom of the Fathers, are invested with so much sanctity, that even errorists prefer the liberty of their own private interpretation to the odium involved in seeking fundamental changes. The *Form of Government* of a Church is more exposed to innovations. But even here, there must have been radical defects originally, in order to justify frequent changes in its principles, or modes of procedure. We have often been amazed at the frequency with which Episcopal Conventions frame new Canons to regulate their affairs. The minor peculiarities of their Form of Government being outside of the Prayer Book, the Bishops, Priests, and laity amend, change, and project Canons with a licentiousness of innovation that quite appals the steady sobriety of Presbyterianism. The Presbyterian Form of Church Government has undergone no material change in its provisions of principle or administration, since the meeting of the Westminster Assembly. A few unimportant alterations, chiefly connected with our transatlantic position and our growth, are all that were attempted at the formation of our General Assembly, in 1788, or at the revisions of 1805 and 1821. In the Assembly at Lexington, in 1857, when the venerable Dr. Hoge moved to refer the Form of Government, as well as the Book of Discipline, to a committee for revision, the motion was rejected almost unanimously, or at least, by a very great majority. Our people are averse to changes of this kind.

A mere *Book of Discipline*, from the nature of the case, is more liable to emendations than a Form of Church Government. The legal methods of accomplishing the purposes of discipline are fairly open to the corrections of experience. And it may be rationally expected that, in the course of years, improvements may be inwrought into the framework of Judicial Forms and Processes.

A growing desire for some change in our *Judicial Proceedings* has manifested itself in our Church for some time past. The following overture, presented by Dr. Boardman to the Presbytery

of Philadelphia, and sent by that body to the General Assembly, in 1857, at length brought matters to a crisis.

"The Presbytery of Philadelphia respectfully represent to the General Assembly, that, in their judgment, there is imperative need of a revision of that part of the Constitution of our Church which relates to JUDICIAL PROCEEDINGS. We will refer, simply by way of illustration, to the obscurity of the Book, in respect of the question (in cases of appeal), 'Who are the *original parties?*' to the length of time needlessly consumed in the *calling of the roll*,—to the *unrestrained liberty of discussion* allowed to the whole aggregate of members belonging to the 'lower judicatories,' and, generally, to the prolixity and tediousness which characterize the whole course of procedure in the higher courts of the Church. Owing to this cause, as the Presbytery believe, there is a constant disposition on the part of our judicatories, to *evade* the hearing of complaints and appeals; mere technical objections, it is to be feared, are sometimes insisted upon, to a degree, which amounts practically to a denial of justice to the parties concerned.

"The forms now observed may have been quite suited to the Church when it consisted of only a score or two of Presbyteries, but they have, for many years past, been a vexation and an incumbrance.

"We pray, therefore, that your venerable body may take the requisite measures to secure an entire revision of that part of our Constitution herein referred to."

After considerable debate in the General Assembly, the following resolution, offered by the Rev. Dr. *William M. Scott*, of Cincinnati, was adopted by a vote of 108 yeas to 76 nays.

"Resolved, That this Assembly commit the Book of Discipline, —the second book of our Governmental Standards,—to a Committee, for revision, to report if any changes are expedient, and if so, what, at the next, or some subsequent General Assembly."

The Assembly then ordered that "the Committee under this resolution consist of nine." The duty of appointing this Committee devolved upon the Moderator of the Assembly, who happened to be the Editor of this Magazine. The selection was important, and there was very little time to make it, as the evening was already well advanced, and the Assembly was about to adjourn *sine die*. The Moderator looked for Divine direction, as well as the circumstances permitted him, as presiding officer. He aimed at satisfying the whole Church; and he thought then, and still thinks, that an abler Committee could scarcely have been chosen. The Committee consisted of the Rev. Drs. James H. Thornwell, R. J. Breckenridge, James Hoge, Charles Hodge, E. P. Swift, and A. T. McGill, *ministers;* and Judge George Sharswood, of Pa., Judge Wm. F. Allen, of N. Y., and Judge H. H. Leavitt, of Ohio, *ruling elders*.

The Committee on the revision of the Book of Discipline met at the call of the Chairman, in the City of Philadelphia, on Thursday, August 5th, 1858. All the members were present, except Judge Leavitt, who was detained by professional business, and Judge Allen, who failed to receive notice of the meeting. The Committee continued their laborious sessions until Monday, August 9th, when they finally adjourned. The result of their labours was, shortly after, published; and the Book of Discipline, as amended, will be presented for the consideration of the next General Assembly.

We propose to make some observations upon several points in the Revised Book; and we preface our remarks by expressing the hope that the Report of the Committee on the Book of Discipline will be *re-committed;* either to the same Committee, with or without additions, or to a new Committee, or to the General Assembly of 1860.

The following are some of our reasons for re-committal:—

1. Great caution and delay have always been practised in previous revisions of our standards. At the formation of the Book of Discipline, in 1788, and at the important revision of 1821, the Reports, after being submitted to the Assembly, were recommitted for further improvement and consideration.* The history is given in the January number of the Presbyterian Magazine.

2. Our Church has paid comparatively little attention, as yet, to the Report of the Committee. The Report has, indeed, been published in our newspapers and magazines, but it is a very long document, and *the proposed changes were not specified* in the Report. There is reason to apprehend that very few, even of our ministers, have fully examined the matter. A discussion in the Assembly will, of course, throw light upon the points in dispute; but in the midst of all the other business, is it at all probable that the Assembly will be able to mature its views so as to send the alterations in the wisest form to the Presbyteries? We fear not. In the midst of the numerous discussions of the next Assembly, not more than two or three days will probably be devoted to this subject; and is it well to dispose so hastily of fundamental principles and regulations that are to bind the Church for years to come?

3. The Report, although a very able one, does not, in every particular, meet public expectation. We are not aware that we ever felt disposed to pay more deference to the judgment of men than of the brethren who compose this Committee. And yet no individual, however inferior in intellect, is bound to yield his opinions to those who seem to be even pillars in the Church. The wisest men cannot be expected to digest perfectly a code of discipline, in all its parts, at a meeting of four or five days. Whilst we repeat the conviction that an abler committee could not be found in the Church, it by no means follows that their Report is a perfect one, or that its decisions are to be received with implicit faith. We neither depreciate the acknowledged ability of these respected and beloved brethren, nor arrogate to ourselves an unbecoming and unlawful office, when we venture to affirm that their Report contains some things that ought not to be adopted, and omits others that ought to be incorporated into it. Assuming that important modifications and improvements may be submitted, and even adopted by the Assembly, in reference to the Book of Discipline, we yet

* At the revision of 1805, only two alterations were made in the Book of Discipline; and these were clearly desirable, and admitted of no debate.

maintain that the wiser course is not to press a decision upon the Presbyteries until after the careful scrutiny of another General Assembly.

4. An additional reason in favour of this course is, that nothing can be lost by the delay, whilst very much may be gained by a more careful consideration of the whole matter.

Instead of recommitting the Report, the same object would be answered by referring it, after a full discussion on each of its propositions, to another Assembly; but the first suggestion strikes us as the wisest, if either be adopted; because a Committee could review the Report with care during the interval, and could best arrange the exact language of the alterations it might be deemed expedient to submit finally to the Presbyteries.

With these preliminary observations, which, it is hoped, will be received in the conciliatory and unprejudiced spirit which dictates them, we proceed with some remarks upon the Revised Book of Discipline.

CHAPTER I. THE NATURE OF AN "OFFENCE."

The first material alteration, proposed by the Committee, is in the definition of an "offence." It will be seen that the Revised Book makes the only rule of faith and practice to be the Scriptures, and the Scriptures as expounded in the standards of the Presbyterian Church.

Present Book.	Revised Book.
An offence is anything in the principles or practice of a church member, which is contrary to the word of God; *or which, if it be not in its own nature sinful, may tempt others to sin, or mar their spiritual edification.* 1, 3.	An offence, the proper object of discipline, is anything in the faith or practice of a professed believer which is contrary to the Word of God, the Confession of Faith, and the Larger and Shorter Catechisms of the Westminster Assembly, being accepted by the Presbyterian Church in the United States of America as standard expositions of the teachings of Scripture in relation both to faith and practice. 1, 2.

We presume that the alteration of the Revised Book will be universally acquiesced in as right, and therefore wise. It is surprising that the definition of the present Book was ever adopted, especially as it varied from the language of the original Book. The *original* Book and the *revised* Book agree in defining nothing as an offence which cannot be made to appear such, from the Word of God.

ARE BAPTIZED CHILDREN SUBJECT TO DISCIPLINE?

The reader will observe the difference between the two Books.

Present Book.	Revised Book.
All baptized persons are members of the Church, are under its care, and subject to its government and *discipline;* and when they have arrived at the years of discretion, they are bound to perform all the duties of church members. 1, 6.	All baptized persons, being members of the Church, are under its government and *training*, and when they have arrived at years of discretion, they are bound to perform all the duties of members. *Only those, however, who have made a profession of faith in Christ are proper subjects of judicial prosecution.* 1, 3.

We have several objections to the change proposed by the Committee.

1. "Let well enough alone," is a good principle in Church or State. The relation of baptized children to the Church is one of the most difficult questions, in some of its aspects, within the range of ecclesiastical adjudication. Why, then, should the case be authoritatively prejudged so far as to deny discipline to any of those who are called "members of the Church?" Is it not far better to leave the Book as it is, and to allow the Church time and opportunity to work out a more consistent position on this interesting and important subject?

2. The alteration, even if in the right direction, is not absolutely necessary. It need not be incorporated into the Book; because the General Assembly might give under its own authority, the requisite definition and explanations respecting discipline, without a constitutional provision. The present Book permits discussion, and the subject has been several times before the Assembly; but the Revised Book summarily removes baptized members from beyond the reach of judicial discipline of any kind.

3. The proposed change obscures the whole subject more than ever. The baptized children are still regarded as "members of the Church," and under its "government and training," but they are excluded from its "discipline"—the word "training" being substituted for "discipline." Is it not difficult to conceive how a person can be a member of the visible Church, and yet not be subject to its discipline? Does or does not the idea of "government," which the Committee retain, include that of discipline, and thus create confusion; and would, or would not, the Committee allow to the Session the right of *admonition?* But admonition is of the nature of discipline. And supposing that the person offending refused to obey a notice of the Session to appear before them, on the ground that it was the first step of a "judicial prosecution," what answer could be given according to the Revised Book?*

The Revised Book clearly maintains that the Session have *no judicial authority whatever* over the baptized, non-professing, members. These members may blaspheme, commit adultery, and

* *Admonition* is a *judicial sentence*, according to the Revised Book of Discipline. See ch. iv, sect. 8: "The accused, if found guilty, shall be *admonished*, or rebuked, or excluded from Church privileges," &c. See also ch. v, sect. 9.

scandalize the name of Christ with impunity, so far as Church discipline is concerned. Will this doctrine be tolerated? We trust not. The power of restraint and of separation from the Church belongs to its just authority. Those who come in by covenant and baptism, ought to be compelled to go out in some mode, if they dishonour the principles of the covenant. But, if they may be separated in any way from the Church, they ought to have a trial, provided one be demanded. The Revised Book, however, expressly forbids the judicial prosecution of these baptized offenders. It admits them into the Church; but when there, allows them the liberty of denying the Lord that bought them, without being guilty of an "offence." They are under "government and training," but not under "discipline!" Now we venture to ask whether any Presbyterian would consider "government" of any avail in his household, which disowned discipline; and what kind of domestic training would that be, which allows offences to go unpunished? Is the training of the Church so different in its nature as to dispense with discipline?

If it be said that professed believers stand in a different relation to the Church than baptized persons, and that they ought to be under a different code of discipline, we may admit it; but we demand in reply *some code* of discipline, whatever it be. The Revised Book provides none. It complicates the whole question; and leaves it in far greater obscurity than the old Book.

4. The clause, as it stands in the old Book, has been there for *seventy years*, ever since the organization of the General Assembly in 1788. To alter it, after so long a sanction, would be seized upon at once by the opposers of infant baptism, and by others, as an "evident token of perdition" to our doctrine of infant church-membership. There would be not only to them the appearance of abandoning our principles, but to many among our own body, the conviction of its reality.

5. This leads us to remark that the change, if made, would offend the consciences of many brethren. There is scarcely a subject on which the public sentiment of our denomination is more sensitive than on that of the relation of the children of believing parents to the Church. The cutting of the Gordian knot by this sword of revision, will be the beginning of a painful and unprovoked controversy.

6. The change, proposed by the Committee, takes the lowest possible view of the relation of baptized children to the Church, consistently with the idea that they are members in any sense at all.

Two theories appear to be entertained in our Church, respecting the discipline of baptized children. The *first* is that of our present Book, which regards and treats as members of the Church, and subject to its discipline, all baptized persons, as well as those who make a profession of religion. The *second* theory considers bap-

tized persons to be in the relation of minors, who, unless they profess faith in Christ when they come to years of discretion, forfeit their Church standing, without any action on the part of the Church.* The proposal of the Committee entirely excludes discipline. It maintains that baptized non-professing members are never subject to the discipline at any time or in any sense; and thus absolutely changes the principle of our Book, and does not even tolerate the old theory in the Church. It is the lowest and most derogatory view of church membership that can be entertained, without renouncing the very idea. Are we willing to alter the Book, at a time when more consistent and rigid views of the duty of the Church to her baptized children are beginning to prevail? Will our General Assembly and our Presbyteries sanction an alteration, whose tendency is to impair the growing obligations of judicatories and private members, and to relax the doctrine and practice of our Church, to a greater extent than ever before?

Dr. Hodge, who was a member of the Committee, gives the following explanation of the proposed change: "This section bears on its face evidence of being a compromise, and, as is apt to be the case with compromises, *it does not hang well together.* We voted for it, however, and share the responsibility of recommending its adoption, *although we prefer the old form.* The fact that we never knew of any baptized person, not a communicant, being made the subject of judicial process, reconciled us to the adoption of the rule, as reported. So long as it is admitted that all baptized persons are under the government of the Church, the principle involved in the case is saved." Rep. 1858, p. 698.

It appears, then, that this change in the time-honoured views of the Presbyterian Church was the result of "compromise." Dr. Hodge might have said not only, "as is apt to be with compromises, it does not *hang well together*," but, as is usual in such cases, principle is sacrificed, and the stricter view gets the worst of it. A great and fundamental principle of Presbyterianism is undoubtedly undermined in this change. The brethren in the Committee represented two parties in the Church. Dr. Hodge remarks, at the beginning of his article, that "fundamental principles, underlying these questions of detail, were constantly brought into view, and it was in reference to *those principles* that the greatest diversity of opinion and difficulty of adjustment were experienced." The point in question was the one that involved more true Presbyterian doctrine than any other in the whole Book of Discipline.

Dr. Hodge, although he preferred the old form, declares that he

* The advocates of the first theory often use the illustration of *minors* to set forth the distinction between the baptized and the professing Church members; but according to their views, the baptized members continue to be minors until they make a profession of religion. The advocates of the second theory differ as to the time when minority ceases; some maintaining that the age of twenty-one is a proper time, and others that the "years of discretion" commence before that period.

was reconciled to the adoption of the rule, as it is reported, by the fact that "he never knew of any baptized person, not a communicant, who was made the subject of judicial process." Three facts deserve to be weighed in the opposite scale. 1. If the principle of disciplining baptized persons be a true one, as hitherto maintained in the standards of our Church, it ought not to be given up on account of laxity of practice, but our practice ought to be made to conform to our views of truth. 2. A considerable advance has been made in the last few years towards the practical recognition of the doctrine of infant church-membership. The laxer sentiments on this subject, which prevailed just before the division of the Church, have been gradually made to yield to the only consistent view of infant church-membership which can be sustained. 3. Cases of discipline among delinquent church members of this character, have actually occurred, and have been followed by the most beneficial results. And there is every reason to believe that the administration of discipline would be more frequent and greatly blessed, if our standards, instead of being changed so as to disown discipline, had more specifically defined its principles and forms.

Previous looseness of practice ought not discourage the Church from persevering attempts at reformation. In former days, lax views of *baptism* prevailed quite extensively, and in some sections of the Church almost universally. So, also, persons were formerly *admitted to the communion* of the Church with comparatively little examination. To this day, many congregations ignore the office of *deacon*. The "*Plan of Union*," too, was once universally acquiesced in, throughout the length and breadth of our borders. But shall a temporary departure from Presbyterian principles be received as a sufficient plea for their perpetual renouncement?* If a failure to act up to our principles be a sufficient ground to relax them, we may be called upon to abandon the idea that baptized children are even under the "government" of the Church; for comparatively few ministers and sessions treat the baptized children differently from any other children.

It is difficult to understand how the principle of infant church-membership is "saved" by the simple admission that baptized children are "under the government" of the Church. Government being made to exclude discipline, according to the views of the Committee, the principle is saved only on paper, whilst it is lost in practice. How would the church-membership of *professing Christians* appear, even on paper, if it was admitted that they were "under the government" of the Church, but not subject to its discipline? How much salvation of principle would be included in an anomalous relationship of this sort, endangering the honour of the Church and the glory of its King? From the nature of the case, government without discipline is mere instruction or advice.

* "Never admit that the good that is desirable is not attainable."

Eli taught his children, but he "restrained them not." He said, "Why do ye such things?" neglecting to add discipline to his exhortations. In like manner, Independency gives its counsel or advice, and it lays down principles and conclusions in cases affecting ministers and churches; but being shorn of the right of discipline, its decisions possess no binding force. The principle saved! Yes, saved like the wheels of a wagon, welded fast to solid rock; saved from effectual working.

We trust that the General Assembly, and the Presbyteries, will never sanction a change that thus disparages and obscures the church-membership of the children of the covenant. Rather let our practice ascend to the dignity and elevation of the truth of our present standards, than our principles descend to the level of the new revision. The change is uncalled for; it is radical; it is contrary to our old principles; it is offensive; it is unnecessary; it is exposing us to the taunts of adversaries. If the practice of the Church has seemed to tolerate, by implication, the proposed innovation, let it be remembered that acquiescence in a particular policy through supineness or inadvertence, is very different from a constitutional injunction to persevere in it.

If it be said that baptized children stand in a different relation to the Church than professing Christians, the fact may be admitted without sanctioning the radical change propounded. We do not demand that the discipline of the Church shall be administered in precisely the same form as in the case of communicants, but we insist that the baptized members shall not be cut off altogether from its privileges. Either let a *new section, or chapter, be added to the Book* on the subject of baptized children, or *let the Book remain as it is.* It will be an evil day to the Presbyterian Church, when she revises her standards in such a way as that they "do not well hang together." If our practice does not accord with our principles, at least let our principles be consistent with each other.

The original Book of 1788 states the proposition in a truly logical form: "*Inasmuch as* all baptized persons are *members of the Church*, they are under its care, and subject to its government and *discipline.*" That statement "hangs well together." Our present Book has precisely the same words, simply omitting "inasmuch as." The language of the Revised Book is illogical and inconsistent, and "does not hang well together."

In these remarks, we have not formally discussed the great principle of our standards respecting the membership of baptized children, but have assumed it as a vital truth, characteristic of the Presbyterian system.

CHAPTER IV. COMMUNICATING MEMBERS AS COUNSEL.

THE next important alteration, proposed by the Revision Committee, in the Book of Discipline, is in regard to the persons who

shall prosecute in the name of "common fame," and represent an accused person on trial.

Old Book.	New Book.
The prosecutor, or counsel, must be a *member of the Court* before whom the trial proceeds. See Book, IV, 21.	The prosecutor, or counsel, may be any *communicating member of the Church*, subject to the jurisdiction of the *same Court* with the accused. See Book, III, 6, and IV, 13.

Both Books wisely prohibit the employment of "professional counsel" in all cases. The extension by the New Book to *communicating members* of the Church, is in many cases a necessity. A Session, for example, may be so small, as to be unable to proceed to trial without a provision of this nature. This necessity does not exist in a Presbytery, Synod, or General Assembly; and, according to our understanding of the language of the New Book, the proposed arrangement cannot extend beyond the Session. Communicating members of the Church cannot be said to be "subject to the jurisdiction" of any Court, except the lower one, in the sense intended. This clause is inserted, we suppose, in order to confine the selection to members of the Church where the difficulty originated. Perhaps also it was intended to practise as nearly as possible on the principle that underlies the common law, viz., that a lawyer is an officer of the Court, or subject to its jurisdiction. If the alteration is designed, in any way, to include the higher Courts except on appeal, we should be opposed to its extension to them, on the ground of its liability to open the door to harsher litigation. The more the Church confines ecclesiastical trials to her own *officers*, as heretofore, the better will it be for her own internal peace. It is only the necessity of the case which seems to justify a departure from our former practice in the case of Church Sessions. If there were no necessity, or strong convenience, in the matter, we should decidedly prefer the rule of the Old Book, even here.

NOT PLEADING EQUIVALENT TO GUILT.

Another alteration proposed is, that A FAILURE TO PLEAD SHALL BE CONSIDERED EQUIVALENT TO CONFESSION OF GUILT.

This is a new principle in our Book of Discipline, and one that is apparently unjust and dangerous. The language of the Revised Book is this:—

"At the second meeting of the Judicatory, the accused shall plead in writing to the charges; and if he fail to do so at the third meeting of the Judicatory, they shall be taken as confessed, provided he has been duly cited." (Revision, IV, 1.)

1. The great principle of common law is, that a man shall be presumed to be innocent of a crime, until he has been proved to be guilty. In all criminal cases, the plea of "not guilty," is entered by the court in behalf of the criminal, and his guilt must be proved by testimony. This is a righteous principle.

2. It might happen, that an accused person, from some impulse,

or from deliberate purpose, might decline to appear before the court, whilst he is not guilty of the offence charged. In such a case, the record of the court would be both a falsehood and a wrong.

3. Or, a person might wish to screen himself from the additional exposure and condemnation which the testimony might exhibit; and the revised rule gives him a summary way of escape.

4. The new rule is rendered unnecessary by the mode indicated in IV, 4, if it be not inconsistent with it, viz.:—

"IV. When an accused person refuses to obey the citation, he shall be cited the second time, and this second citation shall be accompanied with a notice that, if he do not appear at the time appointed, he shall be excluded from the communion of the Church for his contumacy, until he repent; and that the testimony will be taken, and the case adjudicated, as if he were present; and if he should not appear, the judicatory shall appoint some person to represent him, and proceed according to the notice. The person representing him, if a member of the court, shall not be allowed to sit in judgment on the case."

What is to be gained by the new provision, in addition to the last provision, just quoted from the Book?

Dr. Hodge says: "We are not sure that we understand this clause, but presume, the intention was to provide for a case, in which an accused party should refuse, or fail, when *arraigned*, to answer the charges against him." But why should this case be provided for, on a different principle, from a case of contumacy, when a person refuses to obey a citation?

CHAPTER V. PROCESS AGAINST A MINISTER.

It strikes us, that the two chapters on process against a member, and against a minister, ought to be more clearly reduced to the same general principles and provisions, so far as the circumstances admit. Why, for example, should provision be made for the trial of a minister in cases where the facts happened beyond the bounds of his present residence, V, 3; or, when he was at a distance from his usual place of residence, V, 4; and yet no allusion be made to such cases in reference to communicants? If it be said that the same principles apply to Church members, then, why not state them in the *preceding* chapter, with a reference to them in the *succeeding* one, as in V, 2? The fact, that "the same candour, caution, and general method, substituting only the Presbytery for the Session, are to be observed in investigating charges against a minister, as are prescribed in the case of private members," V, 2, would seem to imply, that, if any additional provisions are made in reference to the trial of ministers, as in V, 3 and 4, they are intended to be special and exclusive. This is the more pointed, because chapter IV has a heading which may apply to both mem-

bers and ministers, whereas chapter V has a heading which confines it to ministers.

Again. If a *Church member* refuses to obey the citation a second time, the trial shall proceed as though he were present; the Judicatory appointing some one to represent him, IV, 4. But if a *minister* refuse to obey a second citation, he shall, after being suspended, be cited a *third* time; and then, instead of the trial going on, in his absence, as with the Church member, "he shall be deposed as *contumacious*, and suspended or excommunicated from the Church," V, 10. What we particularly object to here is, that no provision is made for the trial of the minister *on the charges*, but his guilt is covered up under the charge of "contumacy," when the interests of religion might be best answered by a full exposure of his conduct. If it be said that the same principle rules as in the case of Church members, we reply, that the Book makes a specific difference in its language.

These remarks refer to *both* Books; and our only fault with the Revision Committee is, that, in their new arrangement of chapters and sections, they did not render more simple, exact, and uniform, these provisions respecting the trial of members and ministers.

HAS A COURT A RIGHT TO INSTITUTE INQUIRIES WITHOUT PROCESS?

A new principle is introduced into the Revised Book, in the following language:—

"Each Church Court has the inherent power to demand and receive satisfactory explanations from any of its members concerning any matters of evil report." V, 5.

We regard this provision as unjust, hazardous, and extra-judicial, as well as unnecessary. It implies a right of inquisitorial scrutiny, against which no man would be secure. As this provision belongs to the chapter concerning "Ministers," it seems to have towards them a special application, or, at least, a prominent one. Now, it seems to us, that a more ingenious way could scarcely be devised to bring reproach upon a minister, than for some one to arise in Presbytery and ask judicially explanations about this and that rumour. Suppose the minister to be innocent, what reparation can be made? And if guilty, could not "common fame" bring up the case by regular form of process? What necessity is there for this *ex parte* mode of procedure, under the plea of removing suspicion, within the precincts of the court, which has authority to try the offence? There are tale-bearers enough in the community to circulate charges against Church members, and elders, and ministers; and with this new principle in our Book of Discipline, the courts would be expected to take cognizance of "evil reports."

No good could result from this exacting, star-chamber mode of inquiry. A guilty man would generally derive all the benefit of it. By the plausible prevarication of a smooth tongue, he might readily

make representations which, without rebutting evidence, might pass for truth; and then, the charge having been as it were investigated, and passed upon, few would be found willing to prosecute it in a regular way. We see only mischief in this revised suggestion. It has hitherto been unknown in the Presbyterian Church; and no court of law in a free country has ever ventured to practise upon it.

We do not deny the right of a pastor, or elder, to seek a private interview with a communicant, for the purposes of warning, counsel, and instruction, and of explanation, if the suspected party choose to make any; but no Session has a right to summon a member before it and compel him to answer concerning rumours, independently of the forms of judicial investigation. Such a course involves the principle that a man may criminate himself; for, if he refuse, from any good or bad reason, to give "satisfactory explanations," he must be considered guilty of the "evil reports." The case is worse in regard to ministers; because the Presbytery does not pretend to give instructions and counsel to its members, after the manner of a pastor to the members of his church. Our Book provides two clear and exact methods of instituting process: either by a personal accuser, or by common fame; and we are surprised that an intelligent committee, who, according to Dr. Hodge, agitated the question of striking out altogether "common fame" as a means of originating process, should have adopted a principle about "evil rumours," which, by an unconscious necessity, generates common fame, and impairs justice.

We repeat that, whilst any member of a Presbytery, or of any other Church court, may, in his private capacity, have an interview with any brother, who may be charged by rumour with moral delinquency, and may obtain whatever explanations the brother may choose to give, he has no right, as a member of a public court, and in the presence of the court, to ask, or to receive, without process, any explanations whatever, satisfactory or unsatisfactory.

The true principle of procedure is pointed out in the next section, which is retained from the Old Book, and is as follows: "As the success of the Gospel greatly depends upon the exemplary character of its ministers, their soundness in the faith, and holy conversation; and as it is the duty of all Christians to be very cautious in taking up an ill report of any man, but especially of a minister of the Gospel; therefore, if any man knows a minister to be guilty of a private, censurable fault, he should warn him in private. But if the guilty person persist in his fault, or it become public, he who knows it should apply to some other bishop of the Presbytery for his advice in the case." V, 6.

If the person cognizant of the guilt be a minister, he should pursue the course here indicated; and if there be "evil reports" floating about, to such an extent as to border on "common fame," the Presbytery might then, perhaps, appoint a committee to seek an informal interview; but, inasmuch as the Book is already explicit in regard to common fame, it strikes us as the wisest course on

every account, to omit the proposed addition, and to allow charges to be investigated by *the court* only in a judicial manner.

CHAPTER VI. OF CASES WITHOUT PROCESS.

This chapter is entirely new. The first alteration proposed in it, appears to us a reasonable one, with a slight amendment. We are utterly opposed to the second alteration.

Offences Committed in Open Court.

One of the new articles relates to the case, where an offence has been committed in open court:—

"I. There may be cases in which the guilt of the individual is conspicuous or manifest, his offence having been committed in the presence of the court, or in which a trial is rendered unnecessary by the confession of the party; in such cases judgment may be rendered without process.

"II. There being in these cases no accuser, should the sentence be appealed from, some communicating member of the Church, subject to the jurisdiction of the same court with the appellant, shall be appointed to defend the sentence, and shall be the appellee in the case."

There is always danger of abuse of power, where a court has the right of summarily rendering judgment without trial, as in the former of these two cases. The object of a trial is to obtain the evidence of the innocence or guilt of the accused; but the facts having been witnessed by the court, no trial need be had, and the only thing to guard against is the prejudiced or hasty decision of the court. We should prefer a separate section, numbered II, in words like the following:—

II. Where the offence has been committed in the presence of the court, the accused shall have the privilege of being heard in his own defence, and of introducing testimony in mitigation of the charge; and judgment shall not be rendered by the court at the same meeting at which the offence was committed.

The liberty of defending himself, and the interval secured against precipitate judgment, will materially assist in securing justice to the offender.

On Dropping Communicants from the Roll.

The second alteration, proposed under this head by the Revision Committee, is to allow a certain class of communicants to be dropped from the roll of Church membership without censure. It is in these words:—

"III. In cases in which a communicating member of the Church shall state in open court that he is persuaded in conscience that he is not converted, and has no right to come to the Lord's table, and desires to withdraw from the communion of the Church; if he has committed no offence which requires process, his name shall be stricken from the roll of communicants, and the fact, if deemed expedient, published in the congregation of which he is a member."

1. Our first remark is, that the principle of allowing a Church member to withdraw without discipline, when he fails to perform

his covenant obligations, is inconsistent with the language of our Book. An offence is defined in the Book to be "anything in the *faith* or *practice* of a *professed* believer which is contrary to the Word of God." I, 2. Now, is not a communicant a "*professed* believer;" and is not his conviction, however sincere, that "he has no right to come to the Lord's table" an "*offence*," of which he ought to repent? If there be any virtue in definitions or consistency in principles, every professed believer ought to be disciplined for declaring that his faith or practice is contrary to the Word of God.

2. When a man voluntarily assumes obligations, in the Church, he cannot expect to be discharged from them at pleasure, without encountering penalty or discipline. There is no reason in permitting a communicant to disown his relations to Christ, on the plea that conscientious conviction precludes excommunication. Apostacy deserves discipline. Instead of being favoured with an easy mode of leaving the Church, he ought to be willing to incur the sentence of her courts, which, it is believed, he would ordinarily consent to receive, on proper instruction; but, whether willing or not, he is a subject of discipline, as a violator of public engagements to the great Head of the Church.

3. The good of the individual may be promoted by discipline. A sentence of the Church, in the name of Christ, would be more apt to benefit a conscious offender than the mere dropping of his name from the roll. What are the objects or ends of discipline? Let the reader glance at the following enumeration, and ask himself whether one and all would not probably be secured by its administration under the supposed circumstances. Our Book says, "The ends of discipline are the rebuke of offences, the removal of scandal, the vindication of the honour of Christ, the promotion of the purity and general edification of the Church, and the spiritual good of offenders themselves." The discipline of an apostate is an act of mercy to his soul.

4. The proposed innovation seems to countenance the principle that the Church ought to have more regard to outward morality than to spiritual apostacy, and that unbelief is a misfortune rather than a fault. According to the Revised Book, a communicant may leave the Church at his discretion, "*if he has committed no offence which requires process.*" If, however, he has violated the laws of outward morality, he shall first be put on trial, although he confesses he has no right to be a member of the Church. He must be disciplined for wrong *conduct* as a Church member, but not for declaring that he has ceased to own the Lord Jesus Christ as his Saviour.

5. Some persons are inclined to pass hasty judgment upon themselves; others are habitually desponding in regard to their spiritual condition; others may be under temporary darkness or perplexity; and others may be in a backslidden state from which they might be

recovered; and yet, with such a provision staring them in the face, as the one contained in the Revised Book, they might consider it a matter of duty to discontinue their Church connection. At least, a temptation is offered to a large class of communicants, which may prove a turning-point in their destiny, and inflict serious evil upon the Church.

6. An open door by which those who were once "professed believers" may go out, under the protection of the eldership, diminishes the certainty of caution in their admittance. A back door of escape will cause the front door to be less effectually guarded. Just in proportion as discipline is relaxed, will entrance into the Church become easy. If self-deceivers are privileged to retire without censure, greater numbers will be tempted to come in without due consideration. The history of some of our sister Churches is a loud warning on this point.

7. Where will this principle lead? Why not apply it to ministers, who feel that they are not called to preach the Gospel? If such present themselves before the Presbytery, and plead roll-dropping, either because they have no piety, or having piety do not consider themselves called of God to the ministry, ought not a similar provision to be made for all such, in their dilemma? The revisers may answer, perhaps, in the affirmative. On the contrary, the purity of the Church, the honour of her ministry, the glory of her Head, and the good of these offenders, require that, as in the case of delinquent communicants, they should be made to experience the wholesome discipline of the Church through the methods of its divinely appointed administration.

8. The practice that now prevails, to some extent, of dropping from the list a communicant of the supposed class, after a period of persevering expostulation, is far better than a public recognition of the evil by the standards of the Church, especially in the proposed form. It is one thing patiently to tolerate a course you cannot help, after striving to prevent it, and quite another thing to systematize an obnoxious remedy, and publicly to invite a resort to it under regular ecclesiastical sanction.

On the whole, our judgment is strongly averse to changing the present Book, in order to accommodate the discipline of God's house to a class of persons who wish to leave it. The Church advances no claim to "lord it" over the consciences of communicants who may have deceived themselves. No obstruction should be placed in the way of such. She ought to be willing to let them go out from her communion; but not on their own terms, and not in a way to dishonour her truth and her discipline. The Church has the right to record her testimony against the wilful desertion of "professed believers," who once embraced her Lord and partook of her sacraments; and offenders of this class have no just ground of complaint against the attachment of penalty to the falsification of their vows.

What we would propose is this, viz.: *Strike out* all after "offence which requires process," and *insert* the following:—

"The sentence of admonition, suspension, or excommunication, may be entered upon the records of the court, either then, or at some future meeting, at its discretion."

The objects of this amendment are: 1. To preserve the honour and discipline of the Church; 2. To allow the opportunity of faithful expostulation with the offender; and 3. To graduate the discipline according to the circumstances of the case.

The section would then read as follows:—

"III. In cases in which a communicating member of the Church shall state in open court that he is persuaded in conscience that he is not converted, and has no right to come to the Lord's table, and desires to withdraw from the communion of the Church; if he has committed no offence which requires process, the sentence of admonition, suspension, or excommunication, may be entered upon the records of the court, either then, or at some future meeting, at its discretion."

CHAPTER VII. ON PARTIES TESTIFYING.

THE Revised Book distinctly declares that parties in a suit may be called as witnesses:—

"All persons, whether *parties* or otherwise, are *competent* witnesses, except such as do not believe in the existence of God or a future state of rewards and punishments."—VII, 2.

This is a new rule of testimony in our country. It has been adopted as yet in only a few States, where it must undergo the scrutiny of experience; but even in these States the rule only operates in civil actions, and is disallowed in criminal actions. Our Revised Book contains, so far as we know, the first American statute opening the door for parties to testify in criminal actions, or, in such actions as usually come before our Church courts.

One great objection made by lawyers to the application of the new rule, even in *civil* suits, is its temptation to perjury and exaggerated statement. Persons who are interested in the result are more liable to this temptation than any other class.

The admission of parties as witnesses may add somewhat to the excitement and bitterness of controversy. And if a case cannot be clearly determined on its merits by the testimony of other witnesses than the parties themselves, it ought scarcely to be considered within the range of impartial adjudication.

On the other hand, there are undoubtedly some advantages in allowing parties to testify, especially before tribunals whose officers, parties, and objects, may be supposed to be less open to disturbing causes than secular tribunals.

A distinguished lawyer, and Ruling Elder of our Church, has remarked that "The parties themselves, *if they choose*, should be per-

mitted to give their own testimony, and the other evidence would then limit itself to that which is found to be either unexplained or contradictory. This would greatly lessen the volume of the proceedings on trials."

On the whole, we have no special objection to the recognition of the right of parties to appear as witnesses. It is a right which some maintain to be consistent with the present Book. We should prefer the language of the Revised Book to be so modified as to give parties *permission* to testify, without *requiring* them to do so. We can imagine cases where an authoritative rule would be harsh and injurious, and where both the accuser and the accused would prefer to rest the case on the testimony of others. Inasmuch as our Book of Discipline gives authority to punish a witness who is summoned but who refuses to testify, an exceptional clause may be wisely introduced, as in the case of husband and wife.

MEASURES OF CONCILIATION.

A large majority of cases in litigation might probably be amicably settled with proper efforts at conciliation on the part of the Church. We venture to propose for consideration, whether measures may not be wisely adopted, whose object and tendency shall be to prevent, if possible, controversies from coming to open trial before the courts. Several reasons may be urged in favour of proceedings of conciliation:—

1. The particular precepts of Scripture relating to causes of offence among members of the Church, point to at least *two* private efforts to obtain redress before proceeding to the last resort. (See Matt. 18 : 15, 16.) Although the *circumstances* of every case may not be precisely similar to those referred to in these verses, still the *principle* of obtaining redress, first in private by the individual himself, and secondly through the agency or co-operation of others, is distinctly set forth.

2. The universal spirit of the Gospel is peaceful. "Blessed are the peace-makers; for they shall be called the children of God." Peace is a Scriptural injunction; and although it is not to be sought at the sacrifice of justice, yet it is to be continually kept in view by the Church; and all reasonable measures of obtaining it ought to be exhausted.

3. The welfare of the Church is deeply concerned in preventing the progress of controversies. We need not enlarge upon this point.

These reasons seem to authorize, and even demand, on the part of the Church, attempts at reconciliation and peace, before controversies shall be judicially issued by regular trial.

ON APPEALS.

The Revision Committee has recommended three important and

excellent changes in the administration of our present system, which were strongly demanded by public opinion. *First*, the "original parties" are clearly defined to be the appellant and appellee, and no confusion can hereafter arise on this point in any of the courts. *Secondly*, the Church courts, being no longer regarded as parties, their members have a right to sit, deliberate, and vote, in the higher courts. *Thirdly*, the proceedings are simplified by dispensing with hearing the members of the lower court.

These amendments are all judicious, and will be very generally approved, so far as our present judicial system remains intact.

We do not think the Committee have gone far enough in their reformation.

1. The *calling of the roll* ought to be dispensed with, as one of the greatest nuisances in our forms of proceedings. This mode of procedure, among other evils, tempts every one to make a speech; and the temptation is too often successful and ruinous to the brevity of our judicial administration. The original overture from the Presbytery of Philadelphia specifically mentioned the calling of the roll to be one of the points, above all others, that required reformation. Roll-calling not only consumes time unnecessarily, and provokes speeches, but it excites replies, and converts judges into lawyers, and turns the court-room into an arena of debate. Far better to discourage all this hazardous prolixity, and to aim at coming to a speedy vote.

2. Among other improvements, the appellant ought to be made distinctly to *state his point, or points, of appeal*, at the time of his giving notice of the appeal, and to confine himself thereto in the higher court. This would prevent the whole case from being unnecessarily thrown open, and would definitely declare the precise points that are to be considered.

3. Furthermore. Instead of the voluminous reading of the whole testimony taken in the courts below, we believe that it would be more satisfactory to the parties and to the ends of justice, if the *Judicial Committee of the General Assembly should give a condensed view of the case, and report their judgment for final action.* At least, it is well worth considering whether some such provisions as the following, may not be introduced into our system of administering justice, viz. :—

I. When a case is brought up, on appeal, before the Supreme Judicatory of the Church, the Judicial Committee shall examine into the law and facts of the case, as presented in the records of the courts below, and shall report their judgment for the action of the General Assembly.

II. When the Judicial Committee shall have made their report to the General Assembly, it shall be first in order to hear a statement, or explanation, from the party or parties complaining of such report, and then a reply in behalf of the Judicial Committee, after which the vote shall be taken in this form: "Shall the judgment of the Judicial Com-

mittee be the judgment of this House?" If in the affirmative, the case shall be finally adjudicated.

III. If the vote be in the negative, the Assembly may either recommit the report to the Judicial Committee, or appoint a time for the adjudication of the case in its own presence, in which latter alternative the order of proceedings shall be, *first*, to read all the records in the case which either party may call for; *secondly*, to hear the parties, first the appellant, and then the appellee; and *thirdly*, to take the final vote, without debate, unless a majority of the Assembly shall allow further discussion; and it shall always be in order for the majority to demand the final vote.

IV. If the Judicial Committee, on examining the judicial business before the Assembly, shall consider it too onerous for a single Committee, and shall ask for a division of their labours, the Assembly may order the appointment of one, or more, special Committees, as the circumstances may require.

V. The same forms of proceedings in judicial cases, shall be had in Synods as in the General Assembly.

VI. Cases involving heresy, shall, after efforts to obtain a satisfactory explanation or recantation by the Judicial Committee of the Assembly, or other Committees, if in the lower courts, always be tried before the court itself, in conformity with Chapter —, Section —.

A few explanations are added in regard to the propositions regulating the appointment and powers of the Judicial Committee of the General Assembly.

1. As to the policy of giving so much power to the Judicial Committee, it is believed that most persons would prefer to submit their case to an able, impartial committee rather than bring it before a body of 250 or 300 men. Dr. Breckinridge said on this subject: "As to present evils, they are undoubted. All who have been accustomed to sit in our Assembly must know that our present mode of conducting judicial cases, in scraps of time, scraps of testimony, and scraps of speeches, &c., whilst other things were in the meanwhile discussed, is a mere sham. He would rather come blindfolded into the house, and take the first ten members he happens to touch, to try a case, than take the whole three hundred of you as at present. (Laughter.) The evils are unendurable."

2. The discretion invested in the Judicial Committee, to apply to the court for a division of their labours, is necessary to provide for extreme cases. To the objection that too much labour is thrown upon the Judicial Committee, in any event, the reply is, first, that the object of all committees is to facilitate the transaction of business for the convenience and relief of the whole body; secondly, that, if the case were tried in the court, the Committee, as members of it, would be obliged to undergo very much the same amount of labour; and thirdly, every member of the Assembly ought to be supposed willing to bear his full share of responsibility and burden.

3. The shortening of the process of adjudication in the Assembly, keeps thoroughly in view the ends of justice. One, or both of the parties, if they desire it, may make short explanations to

the Assembly, stating precisely the objections to the judicial report. The right of a reply is also due to the Judicial Committee; and any member of the court may *ask questions*, as a matter of right, in enabling him to arrive at an intelligent decision, but he shall not have the right to *argue* the case, or to give the reasons which influence his own mind.

4. Every case may, after all, be finally adjudicated by the Assembly itself, if judged best by that body. But this course would probably be rarely, if ever, resorted to, except in cases of heresy.

The issuing of the case before the court itself, by reading the testimony, &c., only takes place after the report of the Judicial Committee, and the explanations or statements of the parties. Consequently, the subject would be comparatively familiar to the General Assembly; and there could be no just objection to the shortening of the proceeding, as proposed in Section 3.

CONCLUSION.

After writing a good deal upon the subject of revising the Book of Discipline, we have come to the following conclusions:—

1. It is much easier to talk and write about revision, and to propose new plans, than to improve the old Book.

2. Perhaps a majority of the Presbyteries would be willing to alter the Book in regard to appeals. The sentiment of the Church is more decided on this point than on any other. Many of the other changes proposed are uncalled for by public opinion; and we doubt whether they will be sanctioned.

3. For ourselves, we greatly prefer the Old Book as it is, to the Revised Book. Some of the changes proposed are entirely too radical, and seem to regard the Church as a voluntary society rather than the covenanted organization of the living God.

4. Perhaps the best plan to amend a Book of this kind is by piecemeal. Public sentiment, as fairly expressed, is the true standard of alteration. The Committee having far exceeded this standard, have necessarily endangered their whole work. It would not occasion much surprise if the Assembly tabled or rejected the whole report.

5. At any rate, it is hoped that the Assembly of 1859 will not undertake to send the Revised Book down to the Presbyteries. The Church is not prepared to act upon the subjects therein brought to view, or at least to take ultimate action on the revision. If sent down to the Presbyteries this year, we think we hazard little in saying that the amendments would be generally rejected.

The true policy, as it seems to us, is either to refer the whole subject to the old Committee, or to a new Committee, or to the next General Assembly.

6. We acknowledge, with profound humility and distrust, the sug-

gestions we ourselves have made on these high themes. Writing on our own personal responsibility, and in a private and not public capacity, we have felt free to throw out suggestions, when, under other circumstances, we should have refrained from seeming to touch with unhallowed hands the standards of the Church. Our views of the ability and fidelity of the Committee, are of course unchanged. In differing from them decidedly on various points, we trust that we have done so respectfully. An honest difference of opinion among brethren ought to be regarded as a testimonial of a mutual sense of their higher obligations to God.

APPENDIX.

REVISED BOOK OF DISCIPLINE.

PREPARED BY THE COMMITTEE OF THE GENERAL ASSEMBLY, AUGUST, 1858.

CHAPTER I.

Discipline, its Nature, Object, and the Persons subject to it.

I. DISCIPLINE is the exercise of that authority, and the application of that system of laws, which the Lord Jesus Christ has appointed in his Church. Its ends are the rebuke of offences, the removal of scandal, the vindication of the honour of Christ, the promotion of the purity and general edification of the Church, and the spiritual good of offenders themselves.

II. An offence, the proper object of discipline, is anything in the faith or practice of a *professed believer* which is contrary to the word of God; the Confession of Faith and the Larger and Shorter Catechisms of the Westminster Assembly, being accepted by the Presbyterian Church in the United States of America as standard expositions of the teachings of Scripture in relation both to faith and practice.

Nothing, therefore, ought to be considered by any judicatory as an offence, or admitted as matter of accusation, which cannot be proved to be such from Scripture, or from the regulations and practice of the Church, founded on Scripture; and which does not involve those evils which discipline is intended to prevent.

III. All baptized persons, being members of the Church, are under its government and training, and when they have arrived at years of discretion, they are bound to perform all the duties of members. Only those, however, who have made a profession of faith in Christ are proper subjects of judicial prosecution.

CHAPTER II.

Of Offences.

I. Offences are either personal or general, private or public.

II. Personal offences are violations of the Divine law considered in the

special relations of wrongs or injuries to particular individuals. General offences are heresies or immoralities, having no such relation, or considered apart from it. All personal offences are, therefore, general; but all general offences are not personal.

III. Private offences are those which are known only to one or a few persons. Public offences are those which are notorious.

CHAPTER III.

Of the Parties in Cases of Process.

I. In the case of personal offences the injured party can never be a prosecutor without having previously tried the means of reconciliation and of reclaiming the offender required by Christ. Matt. 23 : 15, 16. A church court, however, may judicially investigate them as general offences when the interests of religion seem to demand it. Neither in the case of private offences can those to whom they are known become accusers without having previously endeavoured to remove the scandal by private means.

II. General offences may be brought before a judicatory either by an individual or individuals, who appear as accusers, and undertake to substantiate the charge; or by common fame.

III. In cases of prosecution by common fame, the previous steps required by our Lord, in the case of personal offences, are not necessary. There are many cases, however, in which it will better promote the interests of religion to send a committee to converse in a private manner with the offender, and to endeavour to bring him to a sense of his guilt, than to institute actual process.

IV. In order to render an offence proper for the cognizance of a judicatory on the ground of common fame, it must first be determined that a common fame really exists; and no rumour is to be considered as such unless it specify some particular sin or sins, is widely spread, generally believed, and accompanied with strong presumption of truth.

V. It may happen, however, that in consequence of a report which does not fully amount to a general rumour as just described, a slandered individual may request a judicial investigation, which it may be the duty of the judicatory to institute.

VI. In all cases of prosecution on the ground of common fame, the judicatory may appoint one or more individuals, being communicating members of the Church, subject to the jurisdiction of the same court with the accused, to represent common fame.

VII. The original and only parties to a trial are the accuser and the accused; and in cases of prosecution by common fame, common fame, or the person representing it, is the accuser, and has, in all the courts, all the rights of an original party. These parties, in the appellate courts, are known as appellant and appellee.

VIII. Great caution ought to be exercised in receiving accusations from any person who is known to indulge a malignant spirit towards the accused, who is not of good character, who is himself under censure or process, who is deeply interested in any respect in the conviction of the accused, or who is known to be litigious, rash, or highly imprudent.

CHAPTER IV.

Of Actual Process.

I. When a process has been determined on, no more shall be done at the first meeting of the judicatory, unless by consent of parties, than to give the accused a copy of each charge, with the names of the witnesses then known to support it, and to cite all concerned to appear at the next meeting of the judicatory, to have the matter fully heard and decided. Notice shall be given to the parties and the witnesses at least ten days previously to the meeting of the judicatory. At the second meeting of the judicatory, the accused shall plead in writing to the charges; and if he fail to do so, at the third meeting of the judicatory they shall be taken as confessed, provided he has been duly cited.

II. The citations shall be issued and signed by the Moderator or Clerk, by order and in the name of the judicatory. He shall also issue citations to such witnesses as the accused shall nominate, to appear on his behalf.

III. In exhibiting charges, the times, places, and circumstances should, if possible, be particularly stated, that the accused may have an opportunity to prove an *alibi*, or to extenuate or alleviate his offence.

IV. When an accused person refuses to obey the citation, he shall be cited a second time, and this second citation shall be accompanied with a notice that if he do not appear at the time appointed, he shall be excluded from the communion of the Church for his contumacy until he repent, and that the testimony will be taken and the case adjudicated as if he were present; and if he should not appear, the judicatory shall appoint some person to represent him, and proceed according to the notice. The person representing him, if a member of the court, shall not be allowed to sit in judgment on the case.

V. The time which must elapse between the first citation of an accused person and the meeting of the judicatory at which he is to appear, is at least ten days. But the time allotted for his appearance on the subsequent citation, is left to the discretion of the judicatory; provided always, however, that it be not less than is quite sufficient for a seasonable and convenient compliance with the citation.

VI. Judicatories, before proceeding to trial, ought to ascertain that their citations have been duly served, and especially before they proceed to ultimate measures for contumacy.

VII. The trial shall be fair and impartial. The witnesses shall be examined in the presence of the accused, or at least after he shall have received due citation to attend; and he shall be permitted to cross-examine them, and to ask any questions tending to his own exculpation.

VIII. The accused, if found guilty, shall be admonished or rebuked, or excluded from church privileges, as the case shall appear to deserve, until he give satisfactory evidence of repentance.

IX. The judgment shall be regularly entered on the records of the judicatory, and the parties shall be allowed copies of the whole proceedings, at their own expense, if they demand them; and in case of the removal of the cause to a higher court, the lower judicatory shall send a complete authenticated copy of the whole record to the higher judicatory.

X. The sentence, if it is thought expedient to publish it, shall be published only in the church or churches which have been offended; otherwise, it shall pass only in the court.

XI. Such gross offenders as will not be reclaimed by the private or

public admonitions of the Church, are to be cut off from its communion and treated as heathen men and publicans, agreeably to our Lord's direction. Matt. 18: 17.

XII. As cases may arise in which many days, or even weeks, may intervene before it is practicable to commence process against an accused church member, the session may, in such cases, if they think the edification of the church requires it, prevent the accused from approaching the Lord's table, until the charges against him can be examined. In case a party accused shall absent or secrete himself, so that process cannot be served on him, the judicatory shall enter on its records that fact, together with the nature of the offences charged, and shall suspend the accused from all church privileges, until he shall appear before the court, and answer to the charges against him.

XIII. No professional counsel shall be permitted to appear and plead in cases of process in any of our ecclesiastical courts; but an accused person may, if he desires it, be represented by any communicating member of the Church, subject to the jurisdiction of the court before which he appears. The person so employed, if a member of court, shall not be allowed, after pleading the cause of the accused, to sit in judgment upon the case.

XIV. Questions of order, which arise in the course of process, shall be decided by the Moderator. If an appeal is made from the chair, the question on the appeal shall be taken without debate. Decisions on points of order shall always be recorded (if either party shall desire it).

XV. The records of the proceedings, in cases of judicial process, shall exhibit not only the charges, specifications, and sentence of the court, but all the testimony and all the circumstances which had an influence on its judgment; and nothing which is not contained in the record shall be taken into consideration in reviewing the proceedings in a higher court.

CHAPTER V.

Of Process against a Bishop or Minister.

I. As the honour and success of the Gospel depend, in a great measure, on the character of its ministers, each Presbytery ought, with the greatest care and impartiality, to watch over the personal and professional conduct of all its members. But as, on the one hand, no minister ought, on account of his office, to be screened from the hand of justice, nor his offences to be slightly censured; so neither ought scandalous charges to be received against him by any judicatory on slight grounds.

II. Process against a Gospel minister shall always be entered before the Presbytery of which he is a member. And the same candour, caution, and general method, substituting only the Presbytery for the Session, are to be observed in investigating charges against him, as are prescribed in the case of private members.

III. If it be found that the facts with which a minister stands charged happened without the bounds of his own Presbytery, that Presbytery shall send notice to the Presbytery within whose bounds they did happen; and desire them either (if within convenient distance) to cite the witnesses to appear at the place of trial; or if the distance be so great as to render that inconvenient, to take the examination themselves, and transmit an authentic record of their testimony: always giving due notice to the accused person of the time and place of such examination.

IV. Nevertheless, in case of a minister being supposed to be guilty of a crime or crimes, at such a distance from his usual place of residence as that the offence is not likely to become otherwise known to the Presbytery to which he belongs, it shall, in such case, be the duty of the Presbytery within whose bounds the facts have happened, after satisfying themselves that there is probable grounds of accusation, to send notice to the Presbytery of which he is a member, who are to proceed against him, and either send and take the testimony by commissioners appointed by themselves, or request the other Presbytery to take it for them, and transmit the same, properly authenticated.

V. Process against a Gospel minister shall not be commenced unless some person or persons undertake to make out the charge; or unless common fame so loudly proclaims the scandal that the Presbytery find it necessary, for the honour of religion, to investigate the charge. Nevertheless each church court has the inherent power to demand and receive satisfactory explanations from any of its members concerning any matters of evil report.

VI. As the success of the Gospel greatly depends upon the exemplary characters of its ministers, their soundness in the faith, and holy conversation; and as it is the duty of all Christians to be very cautious in taking up an ill report of any man, but especially of a minister of the Gospel; therefore, if any man knows a minister to be guilty of a private, censurable fault, he should warn him in private. But if the guilty person persist in his fault, or it becomes public, he who knows it should apply to some other bishop of the Presbytery for his advice in the case.

VII. The prosecutor of a minister should be previously warned that if he fail to show probable cause of the charges, he must himself be censured as a slanderer of the Gospel ministry, in proportion to the malignity or rashness that shall appear in the prosecution.

VIII. When complaint is laid before the Presbytery, it must be reduced to writing; and nothing further is to be done at the first meeting (unless by consent of parties), than giving the minister a full copy of the charges, with the names of the witnesses then known; and citing all parties, and their witnesses, to appear and be heard at the next meeting; which meeting shall not be sooner than ten days after such citation.

IX. At the next meeting of the Presbytery the charges shall be read to him, and he shall be called upon to say whether he is guilty or not. If he confess, the Presbytery shall deal with him according to their discretion; if he plead and take issue, the trial shall proceed. If found guilty, he shall be admonished, rebuked, suspended from the ministry, deposed, with or without deprivation of church privileges, or excommunicated, as the Presbytery shall deem fit.

X. If a minister accused of atrocious crimes, being twice duly cited, shall refuse to attend the Presbytery, he shall be immediately suspended. And if, after another citation, he still refuse to attend, he shall be deposed as contumacious, and suspended or excommunicated from the Church.

XI. Heresy and schism may be of such a nature as to infer deposition; but errors ought to be carefully considered; whether they strike at the vitals of religion, and are industriously spread; or, whether they arise from the weakness of the human understanding, and are not likely to do much injury.

XII. If the Presbytery find, on trial, that the matter complained of

amounts to no more than such acts of infirmity as may be amended, and the people satisfied, so that little or nothing remains to hinder his usefulness, they shall take all prudent measures to remove the offence.

XIII. A minister deposed for scandalous conduct shall not be restored even on the deepest sorrow for his sin, until after some time of eminent and exemplary, humble and edifying conversation, to heal the wound made by his scandal. And he ought in no case to be restored, until it shall appear that the sentiments of the religious public are strongly in his favour, and demand his restoration.

XIV. As soon as a minister is deposed, his congregation shall be declared vacant; but when he is suspended it shall be left to the discretion of the Presbytery whether his congregation shall be declared vacant.

CHAPTER VI.

Of Cases without Process.

I. There may be cases in which the guilt of an individual is conspicuous or manifest, his offence having been committed in the presence of the court, or in which a trial is rendered unnecessary by the confession of the party; in such cases judgment may be rendered without process.

II. There being in these cases no accuser, should the sentence be appealed from, some communicating member of the Church, subject to the jurisdiction of the same court with the appellant, shall be appointed to defend the sentence, and shall be the appellee in the case.

III. In cases in which a communicating member of the Church shall state in open court that he is persuaded in conscience that he is not converted, and has no right to come to the Lord's table, and desires to withdraw from the communion of the Church; if he has committed no offence which requires process, his name shall be stricken from the roll of communicants, and the fact, if deemed expedient, published in the congregation of which he is a member.

CHAPTER VII.

Of Witnesses.

I. Judicatories ought to be very careful and impartial in receiving testimony. All persons are not *competent* as witnesses, and all who are competent are not *credible.*

II. All persons, whether parties or otherwise, are *competent* witnesses, except such as do not believe in the existence of God, or a future state of rewards and punishments. Either party has a right to challenge a witness whom he believes to be incompetent, and the court shall examine and decide upon his competency.

III. The *credibility* of a witness, or the degree of credit due to his testimony, may be affected by relationship to any of the parties; by interest in the result of the trial; by want of proper age; by weakness of understanding; by infamy of character; by being under Church censure; by general rashness, indiscretion, or malignity of character; and by whatever circumstances appear to the judicatory to affect his veracity, his knowledge or his interest, in the case on trial.

IV. A husband or wife shall not be compelled to bear testimony against each other in any judicatory.

V. The testimony of more than one witness is necessary in order to establish any charge; yet if several credible witnesses bear testimony to different similar acts, or to confirmatory circumstances, belonging to the same general charge, the crime shall be considered as proved.

VI. No witness, afterward to be examined, except a member of the judicatory, shall be present during the examination of another witness on the same case, unless by consent of parties.

VII. To prevent confusion, witnesses shall be examined first by the party introducing them; then cross-examined by the opposite party; after which any member of the judicatory, or either party, may put additional interrogatories. But no question shall be put or answered, except by permission of the Moderator; and the court shall not permit frivolous questions, or questions irrelevant to the charge at issue.

VIII. The oath or affirmation to a witness, shall be administered by the Moderator, in the following or like terms: "You solemnly promise, in the presence of the omniscient and heart-searching God, that you will declare the truth, the whole truth, and nothing but the truth, according to the best of your knowledge, in the matter in which you are called to witness, as you shall answer it to the great Judge of quick and dead." If, however, at any time a witness should present himself before a judicatory, who, for conscientious reasons, prefers to swear or affirm in any other manner, he shall be allowed to do so.

IX. Every question put to a witness shall, if required, be reduced to writing. When answered, it shall, together with the answer, be recorded, if deemed by either party of sufficient importance.

X. The records of a judicatory, or any part of them, whether original or transcribed, if regularly authenticated by the Moderator and Clerk, or either of them, shall be deemed good and sufficient evidence in every other judicatory.

XI. In like manner, testimony taken by one judicatory, and regularly certified, shall be received by every other judicatory as no less valid than if it had been taken by themselves.

XII. Cases may arise in which it is not convenient for a judicatory to have the whole, or, perhaps, any part of the testimony in a particular cause, taken in their presence. In this case, commissioners shall be appointed to take the testimony in question, which shall be considered as if taken in the presence of the judicatory; of which commission, and of the time and place of their meeting, due notice shall be given to the opposite party, that he may have an opportunity of attending. And if the accused shall desire on his part to take testimony at a distance, for his own exculpation, he shall give notice to the judicatory of the time and place when it is proposed to take it, that a commission, as in the former case, may be appointed for the purpose.

XIII. When the witnesses shall have been examined, the parties shall then be heard to any reasonable extent.

XIV. A member of the judicatory may be called upon to bear testimony in a case which comes before it. He shall be qualified as other witnesses are; and, after having given his testimony, he may immediately resume his seat as a member of the judicatory.

XV. A member of the church summoned as a witness, and refusing to appear, or, having appeared, refusing to give testimony, may be censured for contumacy, according to the circumstances of the case.

XVI. The testimony given by witnesses must be faithfully recorded and read to them, for their approbation or subscription.

XVII. If, in the prosecution of an appeal, new testimony is offered, which in the judgment of the appellate court, has an important bearing on the case, it shall be competent in the court to refer the cause to the inferior judicatory for a new trial; or, with the consent of parties, to take the testimony and issue the case.

CHAPTER VIII.

Of the various ways in which a Case may be carried from a lower to a higher Judicatory.

I. In all governments conducted by men, wrong may be done from ignorance, from prejudice, from malice, or from other causes. To prevent the continued existence of this wrong, is one great design of superior judicatories. And although there must be a last resort, beyond which there is no appeal, yet the security against permanent wrong will be as great as the nature of the case admits, when those who had no concern in the origin of the proceedings, are brought to review them, and to *annul* or *confirm* them, as they see cause; when a greater number of counsellors are made to sanction the judgments, or to correct the errors of a smaller; and, finally, when the whole Church is called to sit in judgment on the acts of a part.

II. Every kind of decision which is formed in any church judicatory, except the highest, is subject to the review of a superior judicatory, and may be carried before it in one or the other of the four following ways, to wit: general review and control, reference, appeals, or complaints.

III. When a matter is transferred in any of these ways from an inferior to a superior judicatory, the inferior judicatory shall, in no case, be considered a party; nor shall its members lose their right to sit, deliberate, and vote in the higher courts.

SECTION I.

General Review and Control.

I. It is the duty of every judicatory above a church session, at least once a year, to review the records of the proceedings of the judicatory next below. And if any lower judicatory shall omit to send up its records for this purpose, the higher may issue an order to produce them, either immediately, or at a particular time, as circumstances may require.

II. In reviewing the records of an inferior judicatory, it is proper to examine, First, Whether the proceedings have been constitutional and regular: Secondly, Whether they have been wise, equitable, and for the edification of the Church: Thirdly, Whether they have been correctly recorded.

III. In most cases, the superior judicatory may be considered as fulfilling its duty, by simply recording, on its own minutes, the animadversion or censure which it may think proper to pass on records under review; and also by making an entry of the same in the book reviewed. But it may be that, in the course of review, cases of irregular proceedings may be found so disreputable and injurious as to demand the interference of

the superior judicatory. In cases of this kind the inferior judicatory may be required to review and correct its proceedings.

IV. No judicial decision, however, of a judicatory shall be reversed, unless it be regularly brought up by appeal or complaint.

V. Judicatories may sometimes entirely neglect to perform their duty, by which neglect heretical opinions or corrupt practices may be allowed to gain ground; or offenders of a very gross character may be suffered to escape; or some circumstances in their proceedings of very great irregularity, may not be distinctly recorded by them. In any of which cases, their records will by no means exhibit to the superior judicatory a full view of their proceedings. If, therefore, the superior judicatory be well advised, by *common fame*, that such neglects or irregularities have occurred on the part of the inferior judicatory, it is incumbent on them to take cognizance of the same; and to examine, deliberate, and judge in the whole matter, as completely as if it had been recorded, and thus brought up by the review of the records.

VI. When any important delinquency, or grossly unconstitutional proceeding, appears in the records of any judicatory, or is charged against them by *common fame*, or by a memorial, with or without protest, the first step to be taken by the judicatory next above, if it is thought expedient to proceed at all, is to cite the judicatory alleged to have offended, to appear at a specified time and place, and to show what it has done, or failed to do in the case in question: after which the judicatory thus issuing the citation shall remit the whole matter to the delinquent judicatory, with a direction to take it up, and dispose of it in a constitutional manner or stay all further proceeding in the case, as circumstances may require.

SECTION II.

Of References.

I. A reference is a judicial representation, made by an inferior judicatory to a superior, of a matter not yet decided; which representation ought always to be in writing.

II. Cases which are new, important, difficult, of peculiar delicacy, the decision of which may establish principles or precedents of extensive influence, on which the sentiments of the inferior judicatory are greatly divided, or on which, for any reason, it is highly desirable that a larger body should first decide, are proper subjects of reference.

III. References are either for mere advice, preparatory to a decision by the inferior judicatory, or for ultimate trial and decision by the superior.

IV. In the former case, the reference only *suspends* the decision of the judicatory from which it comes; in the latter case, it totally relinquishes the decision, and submits the whole cause to the final judgment of the superior judicatory.

V. Although references may in some cases, as before stated, be highly proper; yet it is, generally speaking, more conducive to the public good, that each judicatory should fulfil its duty by exercising its judgment.

VI. Although a reference ought, generally, to procure advice from the superior judicatory; yet that judicatory is not necessarily bound to give a final judgment in the case, even if requested to do so; but may remit

the whole cause, either with or without advice, back to the judicatory by which it was referred.

VII. References are generally to be carried to the judicatory immediately superior.

VIII. In cases of reference, the judicatory referring ought to have all the testimony, and other documents, duly prepared, produced, and in perfect readiness; so that the superior judicatory may be able to consider and issue the case with as little difficulty or delay as possible.

SECTION III.

Of Appeals.

I. An appeal is the removal of a case, already decided, from an inferior to a superior judicatory, the peculiar effect of which is to arrest all proceedings under the decision, until the matter is finally decided in the last court. It is allowable in two classes of cases: 1st. In all judicial cases, by the party to the cause against whom the decision is made. 2d. In all other cases, when the action or decision of the judicatory has inflicted an injury or wrong upon any party or persons, he or they may appeal; and when said decision or action, though not inflicting any personal injury or wrong, may, nevertheless, inflict directly, or by its consequences, great general injury, any minority of the judicatory may appeal.

II. In cases of judicial process, those who have not submitted to a regular trial are not entitled to appeal.

III. Any irregularity in the proceedings of the inferior judicatory; a refusal of reasonable indulgence to a party on trial; declining to receive important testimony; hurrying to a decision before the testimony is fully taken; a manifestation of prejudice in the case; and mistake or injustice in the decision,—are all proper grounds of appeal.

IV. Every appellant is bound to give notice of his intention to appeal, and also to lay the reasons thereof, in writing, before the judicatory appealed from, either before its rising, or within ten days thereafter. If this notice, or these reasons, be not given to the judicatory while in session, they shall be lodged with the Moderator or Stated Clerk.

V. Appeals are generally to be carried in regular gradation, from an inferior judicatory to the one immediately superior.

VI. The appellant shall lodge his appeal, and the reasons of it, with the clerk of the higher judicatory, before the close of the second day of their session: and the appearance of the appellant and appellee shall be either personally or in writing.

VII. In taking up an appeal in judicial cases, after ascertaining that the appellant, on his part, has conducted it regularly, the first step shall be to read all the records in the case from the beginning; the second, to hear the parties, first the appellant, then the appellee; thirdly, the roll shall be called, and the final vote taken. In all appeals in cases not judicial, the order of proceeding shall be the same as in cases of complaints, substituting appellant for complainant.

VIII. The parties denominated appellant and appellee are the accuser and accused who commence the process. The appellant, whether originally accuser or accused, is the party that makes the appeal; the appellee whether originally accuser or accused, is the party to whom the decision appealed from has been favourable.

IX. The decision may be either to confirm or reverse, in whole or in part, the decision of the inferior judicatory; or to remit the cause, for the purpose of amending the record, should it appear to be incorrect or defective; or for a new trial.

X. If an appellant, after entering his appeal to a superior judicatory, fail to prosecute it, it shall be considered as abandoned, and the sentence appealed from shall be final. And an appellant shall be considered as abandoning his appeal, if he do not appear before the judicatory appealed to, on the first or second day of its meeting, next ensuing the date of his notice of appeal; except in cases in which the appellant can make it appear that he was prevented from seasonably prosecuting his appeal by the providence of God.

XI. If an appellant is found to manifest a litigious or other unchristian spirit, in the prosecution of his appeal, he shall be censured according to the degree of his offence.

XII. The necessary operation of an appeal is, to suspend all further proceedings on the ground of the sentence appealed from. But if a sentence of suspension or excommunication from church privileges, or of deposition from office, be the sentence appealed from, it shall be considered as in force until the appeal shall be issued.

XIII. It shall always be deemed the duty of the judicatory whose judgment is appealed from, to send authentic copies of all their records, and of the whole testimony relating to the matter of appeal. And if any judicatory shall neglect its duty in this respect, especially if thereby an appellant, who has conducted with regularity on his part, is deprived of the privilege of having his appeal seasonably issued, such judicatory shall be censured according to the circumstances of the case; and the sentence appealed from shall be suspended until a record is produced upon which the issue can be fairly tried.

XIV. In judicial cases an appeal shall in no case be entered except by one of the original parties.

SECTION IV.

Of Complaints.

I. Another method by which a cause which has been decided by an inferior judicatory may be carried before a superior, is by complaint.

II. A complaint is a representation made to a superior by any member or members of a minority of an inferior judicatory, or by any other person or persons, respecting a decision by an inferior judicatory, which, in the opinion of the complainants, has been irregularly or unjustly made.

III. The cases in which complaints are proper and advisable, are all those cases of grievance, whether judicial or not, in which the party aggrieved has declined to appeal; and all other cases in which the party complaining is persuaded that the purity of the Church, or the interests of truth and righteousness, are injuriously affected by the decision complained of.

IV. Notice of a complaint shall always be given before the rising of the judicatory, or within ten days thereafter, as in case of appeal.

V. In taking up a complaint, after ascertaining that the complainant has conducted it regularly, the first step shall be to read all the records

in the case; the second to hear the complainant; and then the court shall proceed to consider and decide the case.

VI. The effect of a complaint, if sustained, may be to reverse the decision complained of, in whole or in part, and to place matters in the same situation in which they were before the decision was made.

VII. In judicial cases a complaint shall be admitted only where an aggrieved party has declined to appeal, and in such cases an aggrieved party shall not be allowed to complain.

CHAPTER IX.

Of Dissents and Protests.

I. A dissent is a declaration on the part of one or more members of a minority, in a judicatory, expressing a different opinion from that of a minority in a particular case. A dissent, unaccompanied with reasons, is always entered on the records of the judicatory.

II. A protest is a more solemn and formal declaration, made by members of a minority as before mentioned, bearing their testimony against what they deem a mischievous or erroneous judgment; and is generally accompanied with a detail of the reasons on which it is founded.

III. If a protest or dissent be couched in decent and respectful language, and contains no offensive reflections or insinuations against the majority of the judicatory, those who offer it have a right to have it recorded on the minutes.

IV. A dissent or protest may be accompanied with a complaint to a superior judicatory, or not, at the pleasure of those who offer it. If not thus accompanied, it is simply left to speak for itself, when the records containing it come to be reviewed by the superior judicatory.

V. It may sometimes happen that a protest, though not infringing the rules of decorum, either in its language or matter, may impute to the judicatory, whose judgment it opposes, some principles or reasonings which it never adopted. In this case the majority of the judicatory may with propriety appoint a committee to draw up an answer to the protest, which, after being adopted as the act of the judicatory, ought to be inserted on the records.

VI. When, in such a case, the answer of the majority is brought in, those who entered their protest may be of opinion that fidelity to their cause calls upon them to make a reply to the answer. This, however, ought by no means to be admitted; as the majority might, of course, rejoin, and litigation might be perpetuated, to the great inconvenience and disgrace of the judicatory.

VII. When, however, those who have protested, consider the answer of the majority as imputing to them opinions or conduct which they disavow, the proper course is, to ask leave to take back their protest, and modify it in such a manner as to render it more agreeable to their views. This alteration may lead to a corresponding alteration in the answer of the majority; with which the whole affair ought to terminate.

VIII. None can join in a protest against a decision of any judicatory, except those who had a right to vote in said decision.

CHAPTER X.

Jurisdiction.

I. When a member shall be dismissed from one church, with a view to his joining another, if he commit an offence previous to his joining the latter, he shall be considered as under the jurisdiction of the church which dismissed him, and amenable to it, up to the time when he actually becomes connected with that to which he was dismissed and recommended.

II. The same principle applies to a minister, who is always to be considered as remaining under the jurisdiction of the Presbytery which dismissed him, until he actually becomes a member of another.

III. If, however, either a minister or a private member shall be charged with a crime which appears to have been committed during the interval between the date of his admission and his actually joining the new body, but which did not come to light until after he had joined the new body, that body shall be empowered and bound to conduct the process against him.

IV. No Presbytery shall dismiss a minister, or licentiate, or candidate for licensure, without specifying the particular Presbytery or other ecclesiastical body with which he is to be connected.

CHAPTER XI.

Limitation of Time.

I. When any member shall remove from one congregation to another, he shall produce satisfactory testimonials of his church membership and dismission, before he be admitted as a regular member of that church; unless the church to which he removes has other satisfactory means of information.

II. No certificate of church membership shall be considered as valid testimony of the good standing of the bearer, if it be more than one year old, except where there has been no opportunity of presenting it to a church.

III. When persons remove to a distance, and neglect, for a considerable time, to apply for testimonials of dismission, and good standing, the testimonials given them shall testify to their character only up to the time of their removal, unless the judicatory have good information of a more recent date.

IV. If a church member has been more than two years absent from the place of his ordinary residence and ecclesiastical connections, if he apply for a certificate of membership, his absence, and the ignorance of the church respecting his demeanour for that time, shall be distinctly stated in the certificate.

V. Process, in case of scandal, shall commence within the space of one year after the crime shall have been committed; unless it shall have recently become flagrant. It may happen, however, that a church member, after removing to a place far distant from his former residence, and where his connection with the church is unknown, may commit a crime, on account of which process cannot be instituted within the time above specified. In all such cases, the recent discovery of the church membership of the individual, shall be considered as equivalent to the crime itself having recently become flagrant. The same principle also applies to ministers, if similar circumstances should occur.

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